

§ 522.13 Relationship between existing civil contempt commitment orders and new criminal sentences imposed under the U.S. or D.C. Code.

(a) Except as stated in (b), if a civil contempt commitment order is in effect when a criminal sentence of imprisonment is imposed under the U.S. or D.C. Code, the criminal sentence runs consecutively to the commitment order, unless the sentencing judge orders otherwise.

(b) *For federal criminal sentences imposed for offenses committed before November 1, 1987, under 18 U.S.C. Chapter 227:* If a civil contempt commitment order is in effect when a criminal sentence of imprisonment is imposed, the criminal sentence runs concurrent with the commitment order, unless the sentencing judge orders otherwise.

§ 522.14 Inmates serving civil contempt commitments.

We treat inmates serving civil contempt commitments in Bureau institutions the same as pretrial inmates. If an inmate is serving a civil contempt commitment and a concurrent criminal sentence, we treat the inmate the same as a person serving a criminal sentence.

§ 522.15 No good time credits for inmates serving only civil contempt commitments.

While serving only the civil contempt commitment, an inmate is not entitled to good time sentence credit.

Subpart C—Intake Screening

§ 522.20 Purpose and scope.

Bureau of Prisons staff screen newly arrived inmates to ensure that Bureau health, safety, and security standards are met.

[45 FR 44229, June 30, 1980]

§ 522.21 Procedures.

(a) Except for such camps and other satellite facilities where segregating a newly arrived inmate in detention is not feasible, the Warden shall ensure that a newly arrived inmate is cleared by the Medical Department and provided a social interview by staff before assignment to the general population.

(1) Immediately upon an inmate's arrival, staff shall interview the inmate to determine if there are non-medical reasons for housing the inmate away from the general population. Staff shall evaluate both the general physical appearance and emotional condition of the inmate.

(2) Within 24 hours after an inmate's arrival, medical staff shall medically screen the inmate in compliance with Bureau of Prisons' medical procedures to determine if there are medical reasons for housing the inmate away from the general population or for restricting temporary work assignments.

(3) Staff shall place recorded results of the intake medical screening and the social interview in the inmate's central file.

[45 FR 44229, June 30, 1980]

Subpart D—Unescorted Transfers and Voluntary Surrenders

§ 522.30 Purpose and scope.

When the court orders or recommends an unescorted commitment to a Bureau of Prisons institution, the Bureau of Prisons authorizes the commitment and designates the institution for service of sentence. The Bureau of Prisons also authorizes furlough transfers of inmates between Bureau of Prisons institutions or to nonfederal institutions in appropriate circumstances in accordance with 18 U.S.C. 3622 or 4082, and within the guidelines of the Bureau of Prisons policy on furloughs, which allows inmates to travel unescorted and to report voluntarily to an assigned institution.

[61 FR 64953, Dec. 9, 1996]

Subpart E [Reserved]

PART 523—COMPUTATION OF SENTENCE

Subpart A—Good Time

- Sec.
523.1 Definitions.
523.2 Good time credit for violators.

Subpart B—Extra Good Time

- 523.10 Purpose and scope.
523.11 Meritorious good time.

§ 523.1

- 523.12 Work/study release good time.
 523.13 Community corrections center good time.
 523.14 Industrial good time.
 523.15 Camp or farm good time.
 523.16 Lump sum awards.
 523.17 Procedures.

Subpart C—Good Conduct Time

- 523.20 Good conduct time.

Subpart D—District of Columbia Educational Good Time Credit

- 523.30 What is educational good time sentence credit?
 523.31 Who is eligible for DCEGT?
 523.32 How much DCEGT can I earn?
 523.33 How is eligibility for DCEGT limited?
 523.34 How can I challenge DCEGT award decisions?

Subpart E—First Step Act Time Credits

- 523.40 Purpose.
 523.41 Definitions.
 523.42 Earning First Step Act Time Credits.
 523.43 Loss of FSA Time Credits.
 523.44 Application of FSA Time Credits.

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SOURCE: 54 FR 32028, Aug. 3, 1989, unless otherwise noted.

Subpart A—Good Time**§ 523.1 Definitions.**

(a) *Statutory good time* means a credit to a sentence as authorized by 18 U.S.C. 4161. The total amount of statutory good time which an inmate is entitled to have deducted on any given sentence, or aggregate of sentences, is calculated and credited in advance, when the sentence is computed.

(b) *Extra good time* means a credit to a sentence as authorized by 18 U.S.C. 4162 for performing exceptionally meritorious service or for performing duties of outstanding importance in an institution or for employment in a Federal Prison Industry or Camp. “Extra Good Time” thus includes Meritorious Good Time, Work/Study Release Good Time,

Community Corrections Center Good Time, Industrial Good Time, Camp or Farm Good Time, and Lump Sum Awards. Extra good time and seniority are inseparable with the exception of lump sum awards for which no seniority is earned.

(c) *Seniority* refers to the time accrued in an extra good time earning status. Twelve months of “seniority” automatically cause the earning rate to increase from three days per month to five days per month and seniority is then vested.

(d) *Earning status* refers to the status of an inmate who is in an assignment or employment which accrues extra good time.

§ 523.2 Good time credit for violators.

(a) An inmate conditionally released from imprisonment either by parole or mandatory release can earn statutory good time, upon being returned to custody for violation of supervised release, based on the number of days remaining to be served on the sentence. The rate of statutory good time for the violator term is computed at the rate of the total sentence from which released.

(b) An inmate whose special parole term is revoked can earn statutory good time based on the number of days remaining to be served on the special parole violator term. The rate of statutory good time for the violator term is computed at the rate of the initial special parole term plus the total sentence that was served prior to the special parole term and to which the special parole term was attached.

(c) Once an inmate is conditionally released from imprisonment, either by parole, including special parole, or mandatory release, the good time earned (extra or statutory) during that period of imprisonment is of no further effect either to shorten the period of supervision or to shorten the period of imprisonment which the inmate may be required to serve for violation of parole or mandatory release.

Subpart B—Extra Good Time**§ 523.10 Purpose and scope.**

(a) The Bureau of Prisons awards extra good time credit for performing exceptionally meritorious service, or

for performing duties of outstanding importance or for employment in an industry or camp. An inmate may earn only one type of extra good time award at a time (e.g., an inmate earning industrial or camp good time is not eligible for meritorious good time), except that a lump sum award as provided in § 523.16 may be given in addition to another extra good time award. The Warden or the Discipline Hearing Officer may not forfeit or withhold extra good time. The Warden may disallow or terminate the awarding of any type of extra good time (except lump sum awards), but only in a nondisciplinary context and only upon recommendation of staff. The Discipline Hearing Officer may disallow or terminate the awarding of any type of extra good time (except lump sum awards), as a disciplinary sanction. Once an awarding of meritorious good time has been terminated, the Warden must approve a new staff recommendation in order for the award to recommence. A "disallowance" means that an inmate does not receive an extra good time award for only one calendar month. Unless other action is taken, the award resumes the following calendar month. A "disallowance" must be for the entire amount of extra good time for that calendar month. There may be no partial disallowance. A decision to disallow or terminate extra good time may not be suspended pending future consideration. A retroactive award of meritorious good time may not include a month in which extra good time has been disallowed or terminated.

(b) The provisions of this rule do not apply to inmates sentenced under the Sentencing Reform Act provisions of the Comprehensive Crime Control Act of 1984. This means that inmates sentenced under the Sentencing Reform Act provisions for offenses committed on or after November 1, 1987 are not eligible for either statutory or extra good time, but may be considered for a maximum of 54 days of good conduct time credit per year (see 18 U.S.C. 3624(b)).

§ 523.11 Meritorious good time.

(a) Staff are responsible for recommending meritorious good time based upon work performance. Each recommendation must include a justifica-

tion which clearly shows that the work being performed is of an exceptionally meritorious nature or is of outstanding importance in connection with institutional operations. Work performance and the importance of the work performed are the only criteria for awarding meritorious good time.

(b) A retroactive award of meritorious good time is ordinarily limited to three months, excluding the month in which the recommendation is made. A retroactive award in excess of three months requires the approval of the Warden or designee (may not be delegated below the level of Associate Warden). Staff are to include with any recommendation for an inmate to receive a retroactive award of meritorious good time, a written statement confirming the inmate's eligibility for the retroactive award.

(c) Meritorious good time continues uninterrupted regardless of work assignment changes unless the Warden or the Discipline Hearing Officer takes specific action to terminate or disallow the award.

§ 523.12 Work/study release good time.

Extra good time for an inmate in work or study release programs is awarded automatically, beginning on the date the inmate is assigned to the program and continuing without further approval as long as the inmate is participating in the program, unless the award is disallowed.

§ 523.13 Community corrections center good time.

Extra good time for an inmate in a Federal or contract Community Corrections Center is awarded automatically, beginning on arrival at the facility and continuing as long as the inmate is confined at the Center, unless the award is disallowed.

§ 523.14 Industrial good time.

Extra good time for an inmate employed in Federal Prison Industries, Inc., is automatically awarded, beginning on the first day of such employment, and continuing as long as the inmate is employed by Federal Prison Industries, unless the award is disallowed. An inmate on a waiting list

§ 523.15

for employment in Federal Prison Industries is not awarded industrial good time until actually employed.

§ 523.15 Camp or farm good time.

An inmate assigned to a farm or camp is automatically awarded extra good time, beginning on the date of commitment to the camp or farm, and continuing as long as the inmate is assigned to the farm or camp, unless the award is disallowed.

§ 523.16 Lump sum awards.

Any staff member may recommend to the Warden the approval of an inmate for a lump sum award of extra good time. Such recommendations must be for an exceptional act or service that is not part of a regularly assigned duty. The Warden may make lump sum awards of extra good time not to exceed thirty days. If the recommendation is for an award in excess of thirty days and the Warden concurs, the Warden shall refer the recommendation to the Regional Director who may approve the award. No award may be approved which would exceed the maximum number of days allowed under 18 U.S.C. 4162. The actual length of time served on the sentence, to the date that the exceptional act or service terminated, is the basis on which the maximum amount possible to award is calculated. No seniority is accrued for such awards. Staff may recommend lump sum awards of extra good time for the following reasons:

- (a) An act of heroism;
- (b) Voluntary acceptance and satisfactory performance of an unusually hazardous assignment;
- (c) An act which protects the lives of staff or inmates or the property of the United States; this is to be an act and not merely the providing of information in custodial or security matters;
- (d) A suggestion which results in substantial improvement of a program or operation, or which results in significant savings; or
- (e) Any other exceptional or outstanding service.

§ 523.17 Procedures.

(a) Extra good time is awarded at a rate of three days per month during the first twelve months of seniority in

28 CFR Ch. V (7-1-25 Edition)

an earning status and at the rate of five days per month thereafter. The first twelve months of seniority need not be based on a continuous period of twelve months. If the beginning or termination date of an extra good time award occurs after the first day of a month, a partial award of days is made.

(b) An inmate may be awarded extra good time even though some or all of the inmate's statutory good time has been forfeited or withheld.

(c) Parole and mandatory release violators may earn extra good time the same as other inmates. Once an inmate is conditionally released from imprisonment, either by parole, including special parole, or mandatory release, the good time earned during that period of imprisonment is of no further effect either to shorten the period of supervision or to shorten the period of imprisonment which the inmate may be required to serve for violation of parole or mandatory release.

(d) Staff working in the community have the same extra good time authority as the Warden when approving the award of good time for an inmate confined in a non-federal facility and may approve meritorious good time or lump sum awards in accordance with this rule upon recommendations made by a responsible person employed by the non-federal facility. The appropriate staff in the Regional Office may review all such awards if the Regional Director requires the review.

(e) An inmate who is transferred remains in the earning status at time of transfer, unless the reason for transfer would otherwise have caused removal from an earning status, and provided the inmate's behavior is such while in transit that it does not justify removal. Where the receiving institution is a camp, farm, or community corrections center, the extra good time continues automatically upon the inmate's arrival. Where the receiving institution is other than a camp, farm, or community corrections center, the extra good time is terminated upon arrival, and staff at the receiving institution shall review each case to determine if the inmate should continue in meritorious good time earning status if not immediately employed in Federal Prison Industries or assigned to a

Bureau of Prisons, Justice

§ 523.17

work/study release program. If the inmate then is not continued in meritorious good time earning status, later awards must comply with procedures outlined in § 523.11.

(f) An inmate serving a life sentence may earn extra good time even though there is no mandatory release date from which to deduct the credit since the possibility exists that the sentence may be reduced or commuted to a definite term.

(g) Extra good time is not automatically discontinued while an inmate is hospitalized, on furlough, out of the institution on a writ of habeas corpus, or removed under the Interstate Agreement on Detainers. Extra good time may be terminated or disallowed during such absences if the Warden or the Discipline Hearing Officer finds that the inmate's behavior warrants such action.

(h) Extra good time earned by an inmate in a District of Columbia Department of Corrections facility is treated the same as if earned in a Bureau of Prisons institution, upon transfer to a Bureau institution.

(i) An inmate committed under the provisions of 18 U.S.C. 3651 (split sentence) may earn extra good time credits provided the sentence imposed is not under the provisions of 18 U.S.C. 5010 (b) or (c) (YCA). All extra good time and seniority earned is carried over to any subsequent probation violator sentence based on the original split sentence.

(j) An inmate committed under the provisions of 18 U.S.C. 4205(c) may earn extra good time credits towards the final sentence that may be imposed. Such extra good time credits do not reduce the three months allowed for study. An inmate committed under the provisions of 18 U.S.C. 4244, as amended effective October 12, 1984, may earn extra good time credits toward the final sentence that may be imposed. Such extra good time credits do not reduce the provisional sentence. Extra good time may continue during a commitment for examination of hospitalization and treatment under 18 U.S.C. 4245, as amended effective October 12, 1984.

(k) Inmates committed under the provisions of 18 U.S.C. 4244, 4246-47,

4252, 5010 (b), (c), (e), or 5037(c) as these sections were in effect prior to October 12, 1984, are not entitled to extra good time deductions. Inmates committed under the provisions of 18 U.S.C. 4241, 4242, 4243, or 4246 as these sections were amended effective October 12, 1984, are not entitled to extra good time deductions.

(l) A pretrial detainee may not earn good time while in pretrial status. A pretrial detainee, however, may be recommended for good time credit. This recommendation shall be considered in the event that the pretrial detainee is later sentenced on the crime for which he or she was in pretrial status.

(m) An inmate committed for civil contempt is not entitled to extra good time deductions while serving the civil contempt sentence.

(n) A military or Coast Guard inmate may earn extra good time. Extra good time earned in Federal Prison Industries in a military or Coast Guard installation is treated the same as if earned in Federal Prison Industries in the Bureau of Prisons. Other forms of military or Coast Guard extra good time, such as Army Abatement time, are fully credited, but no seniority is allowed.

(o) American citizens who are serving sentences in foreign countries and who are subsequently returned to this country under the provisions of 18 U.S.C. chapter 306 (Pub. L. 95-144) may have earned work, labor, or program time credits in the foreign country similar to extra good time earned under 18 U.S.C. 4162. Such foreign "extra good time" credits shall be treated as if awarded under § 523.16, Lump Sum Awards, with any future lump sum award consideration in this country calculated on the basis of time served in custody of the Bureau of Prisons. After return to this country an inmate may earn extra good time at the three-day rate and advance to the five-day rate after one year of seniority is accrued. No seniority is accrued for foreign "extra good time" credits.

(p) An inmate in extra good time earning status may not waive or refuse extra good time credits.

(q) Once extra good time is awarded, it becomes vested and may not be forfeited or withheld, or retroactively terminated or disallowed.

Subpart C—Good Conduct Time

§ 523.20 Good conduct time.

(a) The Bureau of Prisons (Bureau or BOP) awards good conduct time (GCT) credit to inmates under conditions described in this section. GCT credit may be reduced if an inmate:

(1) Commits prohibited acts which result in certain disciplinary sanctions (see part 541 of this chapter); or

(2) Fails to comply with literacy requirements in this section and part 544 of this chapter.

(b) For inmates serving a sentence for offenses committed on or after November 1, 1987:

(1) The Bureau will award inmates up to 54 days of GCT credit for each year of the sentence imposed by the court. Consistent with this methodology, the Bureau will initially determine a projected release date by calculating the maximum GCT credit possible based on the length of an inmate's imposed sentence. The projected release date is subject to change during the inmate's incarceration.

(2) The Bureau will award prorated credit for any partial final year of the sentence imposed, subject to the requirements in this section. Accordingly, BOP calculates the projected GCT credit to be awarded for any portion of a sentence that is less than a full year at a prorated amount.

(3) An inmate may receive up to 54 days of GCT credit on each anniversary date of his or her imposed sentence, subject to the requirements in this section. Credit for the last year of a term of imprisonment is awarded the day after the end of the final "anniversary period," unless the final year is a complete year, in which case credit for the last year is awarded on the first day of the final anniversary period.

(4) When the inmate reaches the Bureau-projected release date, the sentence will be satisfied and the inmate will be eligible for release.

(c) For inmates serving a sentence for offenses committed on or after November 1, 1987, but before September

13, 1994, GCT credit is vested once received and cannot be withdrawn.

(d)(1) For inmates serving a sentence for offenses committed on or after September 13, 1994, but before April 26, 1996, all GCT credit will vest annually only for inmates who have earned, or are making satisfactory progress toward earning, a high school diploma, equivalent degree, or Bureau-authorized alternative program credit (see part 544 of this chapter).

(2) For inmates serving a sentence for an offense committed on or after April 26, 1996, the Bureau will award:

(i) Up to 54 days of GCT credit for each year of the sentence imposed, applied on the anniversary date of his or her imposed sentence, if the inmate has earned or is making satisfactory progress toward earning a high school diploma, equivalent degree, or Bureau-authorized alternative program credit; or

(ii) Up to 42 days of GCT credit for each year of the sentence imposed, applied on the anniversary date of his/her imposed sentence, if the inmate does not meet conditions described in paragraph (d)(2)(i) of this section.

(3) Notwithstanding the requirements of paragraphs (d)(1) and (2) of this section, a noncitizen (inmate who is not a citizen of the United States) who is subject to a final order of removal, deportation, or exclusion, is not required to participate in a literacy program to earn yearly awards of GCT credit. However, such inmates remain eligible to participate in literacy programs under part 544 of this chapter.

[87 FR 7943, Feb. 11, 2022]

Subpart D—District of Columbia Educational Good Time Credit

SOURCE: 67 FR 48386, July 24, 2002, unless otherwise noted.

§ 523.30 What is educational good time sentence credit?

Educational good time sentence credit is authorized by District of Columbia (D.C.) Code § 24–221.01, and reduces the amount of time to serve under a term of imprisonment. In these rules, we refer to D.C. educational good time as "DCEGT."

Bureau of Prisons, Justice

§ 523.41

§ 523.31 Who is eligible for DCEGT?

You are eligible for DCEGT if:

(a) You are incarcerated in a Bureau of Prisons' (Bureau) institution or a Bureau contract facility;

(b) You are serving a term of imprisonment for a D.C. criminal code violation committed before August 5, 2000;

(c) Your Unit Team approved or designed a plan for you to complete a program designated by the Bureau as eligible for DCEGT;

(d) The Supervisor of Education (SOE) finds that you successfully completed a Bureau-designated education program on or after August 5, 1997; and

(e) You did not violate prison discipline rules while enrolled in the program (see § 523.33).

§ 523.32 How much DCEGT can I earn?

(a) You can earn 5 days DCEGT for each month you were enrolled in a designated program, up to the maximum amount designated by the Bureau for the type of program successfully completed.

(b) You are limited to 5 days per month DCEGT, even if enrolled in more than one designated program.

(c) Enrollment in a designated program for any portion of a calendar month earns one full month's worth of DCEGT.

(d) You are not eligible for DCEGT which, if awarded, would make you past due for release.

(e) Once appropriately awarded, DCEGT vests, and cannot be forfeited.

§ 523.33 How is eligibility for DCEGT limited?

Eligibility for DCEGT is limited in two ways:

(a) If you violate prison rules, you are not eligible for one month's worth of DCEGT for each disciplinary incident committed during the program enrollment period. A Discipline Hearing Officer, or other staff using procedures similar to those in 28 CFR 541.17, must determine that you committed a prohibited act.

(b) The nature of your offense may limit your eligibility for DCEGT under D.C. Code 24-221.01b or 24-221.06.

§ 523.34 How can I challenge DCEGT award decisions?

You can use the Administrative Remedy Program, 28 CFR 542.10 through 542.19, to challenge Bureau of Prisons decisions regarding DCEGT.

Subpart E—First Step Act Time Credits

SOURCE: 87 FR 2717, Jan. 19, 2022, unless otherwise noted.

§ 523.40 Purpose.

(a) The purpose of this subpart is to describe procedures for the earning and application of Time Credits as authorized by 18 U.S.C. 3632(d)(4) and Section 101 of the First Step Act of 2018 (Pub. L. 115-391, December 21, 2018, 132 Stat. 5194) (FSA), hereinafter referred to as "FSA Time Credits" or "Time Credits."

(b) Generally, as defined and described in this subpart, an eligible inmate who successfully participates in Evidence-Based Recidivism Reduction (EBRR) Programs or Productive Activities (PAs) that are recommended based on the inmate's risk and needs assessment may earn FSA Time Credits to be applied toward prerelease custody or early transfer to supervised release under 18 U.S.C. 3624(g).

§ 523.41 Definitions.

(a) *Evidence-Based Recidivism Reduction (EBRR) Program.* An EBRR Program is a group or individual activity that has been shown by empirical evidence to reduce recidivism or is based on research indicating that it is likely to be effective in reducing recidivism; and is designed to help prisoners succeed in their communities upon release from prison. EBRR Programs may include, but are not limited to, those involving the following types of activities:

(1) Social learning and communication, interpersonal, anti-bullying, rejection response, and other life skills;

(2) Family relationship building, structured parent-child interaction, and parenting skills;

(3) Classes on morals or ethics;

(4) Academic classes;

(5) Cognitive behavioral treatment;

- (6) Mentoring;
- (7) Substance abuse treatment;
- (8) Vocational training;
- (9) Faith-based classes or services;
- (10) Civic engagement and reintegrative community services;
- (11) Inmate work and employment opportunities;
- (12) Victim impact classes or other restorative justice programs; and
- (13) Trauma counseling and trauma-informed support programs.

(b) *Productive Activity (PA)*. A PA is a group or individual activity that allows an inmate to remain productive and thereby maintain or work toward achieving a minimum or low risk of recidivating.

(c) *Successful participation*. (1) An eligible inmate must be “successfully participating” in EBRR Programs or PAs to earn FSA Time Credits for those EBRR Programs or PAs.

(2) “Successful participation” requires a determination by Bureau staff that an eligible inmate has participated in the EBRR programs or PAs that the Bureau has recommended based on the inmate’s individualized risk and needs assessment, and has complied with the requirements of each particular EBRR Program or PA.

(3) Temporary operational or programmatic interruptions authorized by the Bureau that would prevent an inmate from participation in EBRR programs or PAs will not ordinarily affect an eligible inmate’s “successful participation” for the purposes of FSA Time Credit eligibility.

(4) An eligible inmate, as described in paragraph (d) of this section, will generally not be considered to be “successfully participating” in EBRR Programs or PAs in situations including, but not limited to:

- (i) Placement in a Special Housing Unit;
- (ii) Designation status outside the institution (*e.g.*, for extended medical placement in a hospital or outside institution, an escorted trip, a furlough, etc.);
- (iii) Temporary transfer to the custody of another Federal or non-Federal government agency (*e.g.*, on state or Federal writ, transfer to state custody for service of sentence, etc.);

(iv) Placement in mental health/psychiatric holds; or

(v) “Opting out” (choosing not to participate in the EBRR programs or PAs that the Bureau has recommended based on the inmate’s individualized risk and needs assessment).

(5)(i) If an eligible inmate “opts out,” or chooses not to participate in any of the EBRR programs or PAs that the Bureau has recommended based on the inmate’s individualized risk and needs assessment, the inmate’s choice must be documented by staff.

(ii) Opting out will not, by itself, be considered a disciplinary violation. However, violation of specific requirements or rules of a particular recommended EBRR Program or PA, including refusal to participate or withdrawal, may be considered a disciplinary violation (*see* this part).

(iii) Opting out will result in exclusion from further benefits or privileges allowable under the FSA, until the date the inmate “opts in” (chooses to participate in the EBRR programs or PAs that the Bureau has recommended based on the inmate’s individualized risk and needs assessment, as documented by staff).

(d) *Eligible inmate*—(1) *Eligible to earn FSA Time Credits*. An inmate who is *eligible to earn* FSA Time Credits is an *eligible inmate* for the purposes of this subpart. Any inmate sentenced to a term of imprisonment pursuant to a conviction for a Federal criminal offense, or any person in the custody of the Bureau, is *eligible to earn* FSA Time Credits, subject to the exception described in paragraph (d)(2) of this section.

(2) *Exception*. If the inmate is serving a term of imprisonment for an offense specified in 18 U.S.C. 3632(d)(4)(D), the inmate is not *eligible to earn* FSA Time Credits.

§ 523.42 Earning First Step Act Time Credits.

(a) *When an eligible inmate begins earning FSA Time Credits*. An eligible inmate begins earning FSA Time Credits after the inmate’s term of imprisonment commences (the date the inmate arrives or voluntarily surrenders at the designated Bureau facility where the sentence will be served).

(b) *Dates of participation in EBRRs or PAs.* (1) An inmate cannot earn FSA Time Credits for programming or activities in which he or she participated before December 21, 2018, the date of enactment of the First Step Act of 2018.

(2) An eligible inmate, as defined in this subpart, may earn FSA Time Credits for programming and activities in which he or she participated from December 21, 2018, until January 14, 2020.

(3) An eligible inmate, as defined in this subpart, may earn FSA Time Credit if he or she is successfully participating in EBRR programs or PAs that the Bureau has recommended based on the inmate's individualized risk and needs assessment on or after January 15, 2020.

(c) *Amount of FSA Time Credits that may be earned.* (1) For every thirty-day period that an eligible inmate has successfully participated in EBRR Programs or PAs recommended based on the inmate's risk and needs assessment, that inmate will earn ten days of FSA Time Credits.

(2) For every thirty-day period that an eligible inmate has successfully participated in EBRR Programs or PAs recommended based on the inmate's risk and needs assessment, that inmate will earn an additional five days of FSA Time Credits if the inmate:

(i) Is determined by the Bureau to be at a minimum or low risk for recidivating; and

(ii) Has maintained a consistent minimum or low risk of recidivism over the most recent two consecutive risk and needs assessments conducted by the Bureau.

§ 523.43 Loss of FSA Time Credits.

(a) *Procedure for loss of FSA Time Credits.* An inmate may lose earned FSA Time Credits for violation of the requirements or rules of an EBRR Program or PA. The procedures for loss of FSA Time Credits are described in 28 CFR part 541.

(b) *How to appeal loss of FSA Time Credits.* Inmates may seek review of the loss of earned FSA Time Credits through the Bureau's Administrative Remedy Program (28 CFR part 542).

(c) *Restoration of FSA Time Credits.* An inmate who has lost FSA Time Credits

under this subpart may have part or all of the FSA Time Credits restored to him or her, on a case-by-case basis, after clear conduct (behavior clear of inmate disciplinary infractions under 28 CFR part 541) for two consecutive risk and needs assessments conducted by the Bureau.

§ 523.44 Application of FSA Time Credits.

(a) *How Time Credits may be applied.* For any inmate eligible to earn FSA Time Credits under this subpart who is:

(1) Sentenced to a term of imprisonment under the U.S. Code, the Bureau may apply FSA Time Credits toward prerelease custody or supervised release as described in paragraphs (c) and (d) of this section.

(2) Subject to a final order of removal under immigration laws as defined in 8 U.S.C. 1101(a)(17) (*see* 18 U.S.C. 3632(d)(4)(E)), the Bureau may not apply FSA Time Credits toward prerelease custody or early transfer to supervised release.

(3) Serving a term of imprisonment pursuant to a conviction for an offense under laws other than the U.S. Code (*see* Section 105 of the FSA, Pub. L. 115-391, 132 Stat. 5214 (not codified; included as note to 18 U.S.C. 3621)), the Bureau may not apply FSA Time Credits toward prerelease custody or early transfer to supervised release. This paragraph (a)(3) will not bar the application of FSA Time Credits, as authorized by the DC Code, for those serving a term of imprisonment for an offense under the DC Code.

(b) *Consideration for application of FSA Time Credits.* Where otherwise permitted by this subpart, the Bureau may apply FSA Time Credits toward prerelease custody or early transfer to supervised release under 18 U.S.C. 3624(g) only if an eligible inmate has:

(1) Earned FSA Time Credits in an amount that is equal to the remainder of the inmate's imposed term of imprisonment;

(2) Shown through the periodic risk reassessments a demonstrated recidivism risk reduction or maintained a minimum or low recidivism risk, during the term of imprisonment; and

Pt. 524

28 CFR Ch. V (7-1-25 Edition)

(3) Had the remainder of his or her imposed term of imprisonment computed under applicable law.

(c) *Prerelease custody.* The Bureau may apply earned FSA Time Credits toward prerelease custody only when an eligible inmate has, in addition to satisfying the criteria in paragraph (b) of this section:

(1) Maintained a minimum or low recidivism risk through his or her last two risk and needs assessments; or

(2) Had a petition to be transferred to prerelease custody or supervised release approved by the Warden, after the Warden's determination that:

(i) The prisoner would not be a danger to society if transferred to prerelease custody or supervised release;

(ii) The prisoner has made a good faith effort to lower their recidivism risk through participation in recidivism reduction programs or productive activities; and

(iii) The prisoner is unlikely to recidivate.

(d) *Transfer to supervised release.* The Bureau may apply FSA Time Credits toward early transfer to supervised release under 18 U.S.C. 3624(g) only when an eligible inmate has, in addition to satisfying the criteria in paragraphs (b) and (c) of this section:

(1) An eligible inmate has maintained a minimum or low recidivism risk through his or her last risk and needs assessment;

(2) An eligible inmate has a term of supervised release after imprisonment included as part of his or her sentence as imposed by the sentencing court; and

(3) The application of FSA Time Credits would result in transfer to supervised release no earlier than 12 months before the date that transfer to supervised release would otherwise have occurred.

PART 524—CLASSIFICATION OF INMATES

Subpart A [Reserved]

Subpart B—Classification and Program Review of Inmates

Sec.
524.10 Purpose.

524.11 Process for classification and program reviews.

Subpart C—Youth Corrections Act (YCA) Programs

524.20 Purpose and scope.
524.21 Definitions.
524.22 YCA program.
524.23 Program reviews.
524.24 Parole hearings.
524.25 U.S. Parole Commission.

Subpart D [Reserved]

Subpart E—Progress Reports

524.40 Purpose and scope.
524.41 Types of progress reports.
524.42 Content of progress reports.
524.43 Inmate's access to progress reports.

Subpart F—Central Inmate Monitoring (CIM) System

524.70 Purpose and scope.
524.71 Responsibility.
524.72 CIM assignment categories.
524.73 Classification procedures.
524.74 Activities clearance.
524.75 Periodic review.
524.76 Appeals of CIM classification.

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 3521-3528, 3621, 3622, 3624, 4001, 4042, 4046, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510.

Subpart A [Reserved]

Subpart B—Classification and Program Review of Inmates

SOURCE: 71 FR 36007, June 23, 2006, unless otherwise noted.

§ 524.10 Purpose.

The purpose of this subpart is to explain the Bureau of Prisons (Bureau) process for classifying newly committed inmates and conducting program reviews for all inmates except:

- (a) Pretrial inmates, covered in 28 CFR part 551; and
- (b) Inmates committed for study and observation.

§ 524.11 Process for classification and program reviews.

- (a) *When:*